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**SEP 04 2002**

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| In re Application of                      | : | OFFICE OF PETITIONS |
| Kirkpatrick et al.                        | : |                     |
| Application No. 10/045,436                | : | DECISION GRANTING   |
| Filed: November 7, 2001                   | : | PETITION            |
| Attorney Docket No. 60027.075US01/BS01302 | : |                     |

This is a decision on the renewed petition filed August 13, 2002, to establish that page 19 of the specification which includes claims 19 and 20 was part of the originally filed application.

On November 7, 2001, the application was filed.

On February 19, 2002, the Office of Initial Patent Examination mailed a "Notice of Omitted Item(s)" stating that the application had been accorded a filing date of November 7, 2001, and advising applicants that page 19 of the specification appeared to have been omitted.

In response, the present petition was filed alleging that page 19, which consists of claims 19 and 20, was deposited on November 7, 2001. In support, petitioner has submitted a postcard receipt which acknowledges receipt of "20 claims" on November 7, 2001.<sup>1</sup> Petitioner has also submitted a copy of the missing documentation- page 19.

Upon review of the record, page 19, deposited on November 7, 2001, has not been located. However, the evidence is convincing that the application papers deposited on November 7, 2001, included page 19, and that page 19 was subsequently misplaced in the PTO.

In view of the above, the petition is **granted**. The copy of page 19 submitted with the petition will be used for examination purposes.

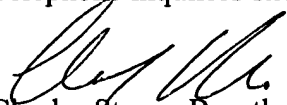
The Notice mailed February 19, 2002, was sent in error and is hereby vacated.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of November 7, 2001, using the application papers filed on November 7, 2001, and the copy of page 19 of the specification filed on March 19, 2002.

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<sup>1</sup> Evidence of receipt of any correspondence filed in the Patent and Trademark Office can be obtained by submitting a self addressed post card properly itemizing and identifying the paper or papers being filed. Upon receipt of the correspondence, the Patent and Trademark Office will check the listing on the post card against the papers submitted, making sure that all items listed are present and will then stamp the postcard with an Official date stamp and place the post card in the outgoing mail. "A post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." M.P.E.P. § 503.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.



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for Patent Examination Policy